IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3355 of 1997

with

SPECIAL CIVIL APPLICATION No 3471 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements?

2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the fair copy of the judgement?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge?

Nos 1 to 5 No

ABS INDUSTRIES LTD.

Versus

RASAYANIC KAMDAR SANGH

Appearance:

Mr.K.M.Patel for petitioner in Special Civil Application No. 3355 of 1997 and for Respondent No.1 in Special Civil Application No. 3471 of 1997.

Mr.H.B.Shah for Rasayanik Kamdar Sangh, Respondent No.1 in Special Civil Application No. 3355 of 1997 and Respondent No.2 in Special Civil Application No. 3471 of 1997.

Mr.D.H.Vaghela for Respondent No.2 Ranoli Karmachari Sangh in Special Civil Application No. 3355 of 1997 and for petitioner in Special Civil Application No. 3471 of 1997.

CORAM : MR.JUSTICE M.R.CALLA
Date of decision: 08/05/97

COMMON ORAL JUDGEMENT

Rule.

Mr.H.B.Shah and Mr.Vaghela waive service of Rule on behalf of Respondents No.1 and 2 respectively in Special Civil Application No. 3355 of 1997. Mr.K.M.Patel and Mr.H.B.Shah waive service of Rule on behalf of their respective clients i.e. Respondents No. 1 and 2 respectively in Special Civil Application No. 3471 of 1997.

These two Special Civil Applications are directed against the order dated 25.4.1997 passed by the Industrial Tribunal No.1,Baroda in pending Reference (IT) No.6 of 1997.The dispute involved in this case is about the settlement dated 29.3.1997. This settlement is opposed by Rasayanik Kamdar Sangh except for the financial benefits whereas the same is supported by the recognised union i.e. Ranoli Karmachari Sangh. The reference was posted for the date of 2.5.1997 before the Industrial Tribunal but on application moved by the Rasayanik Kamdar Sangh on 24.4.1997 the order has been passed by the Industrial Court No.1, Baroda on 25.4.1997 that whether the members of the Rasayanik Kamdar Sangh have accepted the settlement or not no discrimination can be made in the matter of financial benefits under the settlement dated 29.3.1997 and the financial benefits shall be given by ABS Industries to the members of both the unions.

Mr.Vaghela appearing on behalf of the representative union and Mr.K.M.Patel appearing on behalf of ABS Industries have submitted that the application was moved on 24.4.1997 and they expected that the matter shall be heard on 2.5.1997 which was the date already fixed but the orders were passed on 25.4.1997 without affording an effective opportunity to them with regard to the application dated 24.4.1997 which has been moved Rasayanic Kamdar Sangh. It has been argued that the principles of natural justice have been violated and the impugned order has been passed without affording real and effective opportunity to the representative union as well as ABS Industries Ltd.

The factual assertions to this effect made by the representative union of the ABS Industries have not been controverted. In the facts of this case, the impugned order dated 25.4.1997 deserves to be set aside on this

count alone viz. denial of reasonable opportunity. Accordingly this order dated 25.4.1997 passed by the Industrial Court No.1, Baroda is hereby quashed and set aside. It is stated by Mr.K.M.Patel that the matter is now going to come up before the Industrial Tribunal on 17.6.1997. I therefore, having quashed the order dated 25.4.1997 remand the matter to the Industrial Tribunal No.1 for adjudication of application dated 24.4.1997 as has been moved by Rasayanic Kamdar Sangh. It will be open for the parties to file replies or to suppliment and even Rasayanic Kamdar Sangh may suppliment its pleadings in support of its application dated 24.4.1997 and the Industrial Tribunal No.1 at Baroda shall pass the appropriate orders afresh in accordance with law after hearing both the sides and without being influenced by anything mentioned , said and observed in the order dated 25.4.1997. Both these Special Civil Applications are accordingly allowed. Rule is made absolute in both the matters as aforesaid. No order as to costs.

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mmb.